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MICHIGAN'S PRESIDENTIAL ELECTORS.

BY THE HON. EDWIN B. WINANS, GOVERNOR OF MICHIGAN.

A GENERAL misconception or lack of information seems to prevail concerning the character and probable effect of the change directed by the present legislature of Michigan in the manner of choosing the State's Presidential electors. Press comment indicates an impression in other States that Michigan has violated precedent and introduced a dangerous innovation by providing a mode of appointing her electors different from that employed elsewhere. A glance at the early practice in the various States will remove this impression.

The Constitution of the United States provides that, "Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress." Since 1860 it has been the practice* in all the States to select Presidential electors by vote of the people upon a general ticket, each elector being chosen by the vote of his whole State. Prior to 1860, however, the different State legislatures had, at different times, provided a variety of methods. At the first Presidential election in January, 1789, electors were chosen in ten States. In seven they were chosen by the legislatures and in three by popular elections. In 1796, the electors of six States were chosen by popular elections and in ten States by the legislatures. In 1824, the legislatures of six States chose the electors, and in all the other States there were popular elections. In 1832, South Carolina was the only State whose legislature made the choice, and she alone continued the practice until 1860. Among the States in which the selection was made by popular vote two methods were in use; one by general ticket, as is customary at present, the other by dividing the States into districts, the voters

* The Colorado electors were chosen by the legislature in 1876.

of each district choosing one or more electors. The States which preferred the district system, one after another adopted the general ticket, but as late as 1824 Maine, Massachusetts, Maryland, Kentucky, and Illinois elected by districts.

Different methods of division into districts were employed. In 1792, the legislature of North Carolina divided that State into four districts, and the members of the legislature residing in each district chose three electors. In 1828, electors were chosen by congressional districts in Maine and New York, and those thus chosen selected the two additional electors for each State. Maryland continued the district system until 1832. At one time, the State was divided into a number of districts corresponding to the number of electors. Later, the State was divided into nine districts, two of which chose two electors each, the remainder choosing one each. At another time, the division was into four districts, the first choosing four electors, the second and third choosing two each, and the fourth choosing three. The instances cited show that many of the older States were "Michiganized" from the beginning.

The recent act of the Michigan legislature directs, in effect, that the voters of each of the twelve congressional districts of Michigan shall choose one Presidential elector. The State is also divided into two electoral districts, an Eastern and a Western, each comprising six congressional districts, and the voters of each electoral district are to choose one of the two additional electors to which the State is entitled.

The change was made in the belief that the district system will enable the people of the State to give a much more definite and satisfactory expression of their choice for the Presidency. The most complete expression possible would be obtained by allowing the people to vote directly for the candidates of their choice, without the interposition of Presidential electors. This method was fully discussed in the constitutional convention of 1787, but was not then considered expedient. One of the arguments advanced was, that to submit the election of a President to direct vote of the people is to take this important power out of the hands of those best fitted for its exercise and bestow it upon those least capable of using it wisely. The system finally adopted was chosen as the best of the many plans proposed for the choice of a President by delegates chosen by the people. The object in

view was the selection of a limited number of men, chosen from among their fellow citizens because of special fitness, who were to meet for deliberation upon the merits of public men, and, after careful consideration, exercise their own judgment in voting for a President.

Nominating conventions were then unknown, and the Presidential electors were not pledged to vote for particular candidates, but were left free to use their own discretion or to reflect the preference of the section they represented. Appeals to this discretion were often made after the electors were chosen. It was not contemplated, when the Constitution was adopted, that all the electoral votes of each State should necessarily be cast for the same candidate, and in the earlier elections it was common for different candidates to receive electoral votes from the same State. As late as 1824 the New York electors divided their votes among four candidates for President and two for Vice-President. Moreover, had it been the design of the framers of the Constitution that each State should cast its entire electoral vote as a unit, there would have been no occasion for the appointment of electors. The whole matter could have been arranged by allowing each State so many votes for President, instead of so many Presidential electors. The Presidential votes of a State could then have been cast by one officer as well as by twenty, or could have been certified to the President of the Senate by the executive officers of the State. The fact that each electoral vote was to be cast by an individual is proof that individual and independent action by the electors was contemplated. But the original intention has been so far lost sight of that in our day the electors have no discretion whatever. They simply meet and vote for the candidates previously nominated by their party conventions. The only essential qualification of a modern Presidential elector is fidelity to his party. He is merely the mouth-piece of the party who choose him, and any exercise of his individual judgment, contrary to the sentiment of his party, would be considered a crime. Our people can no longer be regarded as incompetent to exercise their own judgment, and if they were now incompetent, the electoral system would be no safeguard, for, in point of fact, it is the discretion of the people and not that of the electors to which effect is given.

While the electoral system seems destined to continue for a

time, it is within the power of each State legislature to give every section of its State a fair representation in the Electoral College. The most unsatisfactory result of choosing the electors by general ticket is that it practically compels the selection in each State of electors who are all pledged to one candidate, and nullifies the influence of large portions of the State where that candidate is unpopular. In any State there may be a large section, a congressional district, or several of them, in which a heavy majority of the voters are strongly opposed to the election of a particular candidate, yet, against their will, their influence is practically cast in favor of that candidate because a different sentiment prevails in the remainder of the State.

In many of the States parties are evenly divided, but by choosing the electors on a general ticket the principle of the odious unit rule is applied, which permits the majority of a delegation to dictate the votes of the minority, and which is no longer tolerated even in nominating conventions. Thus the entire electoral vote of a State may be cast for a candidate who is opposed by forty-nine per cent. of the voters. Wisconsin will have twelve votes in the next Electoral College. The political complexion of the State is fairly doubtful, and the vote will probably be a close one, yet one party or the other in that State will have absolutely no representation in the Electoral College. If the Electors were to be chosen by districts, can it be doubted that the result in any State would be a more exact expression of the preferences of her people?

Objection has been made to the district system on the ground that it will divide the electoral vote of a State and thus lessen her influence in the selection of a President. I answer, that if popular sentiment in a State is divided, her electoral vote ought to be divided, be the result what it may. The political minority help to make up the basis of population upon which the electors are apportioned to the States, and common fairness demands that they be given their proportionate share of the electors. In every State the people of limited districts decide who shall represent their interests in the National House of Representatives. There is no express provision in the Constitution that members of Congress shall be chosen by districts. They are to be chosen every second year "by the people of the several States," and the people of the States, through their legislatures, divide the States into congressional

districts. That this method is fair and just, and secures to the people of the State a proper representation, is not denied even by those who insist upon choice of electors by general ticket. A proposition to elect by general ticket the congressional delegation of any State would be instantly resented in every district, yet the people of those districts are forced to turn over to the State at large the expression of their Presidential preferences. Surely the election of a President is as important an exercise of power, and should as fairly reflect the wishes of the voters, as a congressional election. The sacred principle of majority rule would be as faithfully applied in the districts as in the State, and the application would be far less vexatious and arbitrary. The people of each district would speak for themselves, and the result would be a far more accurate and detailed showing of preferences. Most of the districts would be doubtful and every voter would feel that his influence would have its weight in the selection of a chief magistrate.

The enactment of the Michigan statute has developed, among advocates of the general ticket, a theory that a choice of electors by districts is a violation of the Constitution, which directs that "Each State shall appoint" the electors. It is claimed that a State legislature has no authority to refer the choice to the people of sub-divisions of the State. But it seems idle to discuss a question which was settled by early practice and by the acquiescence of the men who framed the Constitution. It has been shown that by direction of different State legislatures the district system was in use for many years after the adoption of the Constitution. Is it to be assumed that the men who framed that instrument permitted a misconstruction of its language in so important a particular to pass unchallenged for more than forty years? President Madison, in a letter to George Hay, dated August, 1823, said: "The district mode was mostly, if not exclusively, in view when the Constitution was framed and adopted, and was changed for the general ticket and legislative election as the only expedient for baffling the policy of particular States which had set the example." Here we have the explanation of the gradual change of method. As the people divided into parties, the majorities in certain States, having control of the legislatures, decided to shut the mouths of their opponents. Hence the adoption of the general ticket. Virginia ratified the Constitution in June, 1788, and in November her legislature directed, "That for the purpose

of choosing twelve electors on behalf of this State to vote for a President in conformity to the Constitution of government for the United States, the several counties in this commonwealth shall be allotted into twelve districts, in manner following." One hundred and three years later it is announced that this action was unconstitutional. Judge Story, after reciting that the general ticket, the district method, and the legislative election had each been employed, remarks, "No question has ever arisen as to the constitutionality of either mode, except that of a direct choice by the legislature." ("Story on the Constitution," Sec. 1,472.) Even President Harrison, who has strongly expressed his disapprobation of the Michigan law, and who may be presumed to have fully stated the arguments against it, does not contend that it is a violation of the Constitution.

An advantage of the highest importance would be gained through the district system by destroying the commanding importance of pivotal States. A bare plurality of the popular vote in two States has decided several Presidential elections. As a general election approaches every man interested in the result can name the States in which the result is considered assured, and interest is practically withdrawn from those States and centred upon the few doubtful ones. In these, intense excitement is aroused, and the fight is waged with a bitterness and determination born of the conviction of their special importance. Indiana becomes a "bloody angle" and New York a "battlefield." Business comes to a standstill, men are crazed for the time by the intensity of their excitement, and general demoralization prevails. These decisive States must be carried at any cost, and enormous corruption funds are raised and poured into them from every quarter. Thousands of votes are bought and sold, and corruption and debauchery are openly carried on, because the perpetrators can rely upon party spirit to shield them from punishment. And when it is all over, one wonders what the result would have been in those States had the people been left in peace to vote their own preferences. If the electors were chosen by districts, this concentration of unhealthy effort in particular States would cease. The contest would be confined to the individual districts, and so many of these would be in doubt that political managers could not ascertain, as they now can, just what must be done to carry the day.

President Harrison in his last annual message to Congress used the following language: "The recent Michigan legislation provides for choosing what are popularly known as the congressional electors for President by congressional districts, and the two senatorial electors by districts created for that purpose. This legislation was, of course, accompanied by a new congressional apportionment, and the two statutes bring the electoral vote of the State under the influence of the gerrymander."

Without stopping to discuss the propriety of this aspersion coming from one who is himself a probable candidate for the electoral votes of Michigan, let us inquire what is the chief evil of the gerrymander. The term is used to designate the practice of so dividing a State as to give one party an unfair advantage in a majority of the districts. The practice is an undoubted wrong, and has at times been indulged in by each of the great parties, but it is a practice which immediately affects the voters of every district, and experience has shown that public sentiment is quick to condemn its arbitrary use. Its injustice lies in the fact that it lessens the representation to which the political minority, by reason of their numbers, are justly entitled. But if we condemn the gerrymander because it lessens the representation of the minority, what is to be said of a system which excludes the minority from any representation whatever? Yet this is the exact result attained by choosing Presidential electors on a general ticket.

In a recent article a distinguished ex-Senator of the United States discusses the gerrymander, and, referring to the apportionment of Alabama, says: "The district of smallest population has only 151,757 inhabitants, and another contiguous district has 253,891, a difference of upwards of 100,000 citizens." He adds: "Suggestion as to the motive for such geographical and numerical arrangement is quite superfluous."

At the last congressional election, the first district of Michigan had a population of 257,114, and another contiguous district, the second, had 153,655, a greater disparity than that shown in Alabama. Is comment here superfluous? Since 1880 the difference between the most populous and least populous congressional districts of Michigan has been as follows: In 1880, 64,951; in 1884, 50,607; in 1890, 103,459, and under the new apportionment of 1891, 44,253. Three of the new districts, the first, second and seventh, may be considered safely Democratic.

Three others, the third, fourth and twelfth, are as safely Republican. The remainder are fairly doubtful districts, with the chances in favor of the Republicans in at least two of them, and it may safely be asserted that Michigan was never more fairly apportioned.

Equally unwarranted with the claim that Michigan is gerrymandered is the assumption that the district system was adopted for a temporary party advantage. In the last State campaign the tariff issue was fully discussed, and although local considerations caused two of the Democratic candidates to run ahead of their ticket, the rest were elected by an average plurality of about 3,000. In the Congressional elections, upon national issues, the total Democratic vote for Congressmen exceeded the total Republican vote by 9,628. With these facts in view, there was strong reason for the belief that, without a change in the method of choosing electors, the entire electoral vote of Michigan would be cast for the Democratic candidate of 1892.

We divide our States into districts for the election of State Representatives, and into other districts for the choice of State Senators, in order that the people of all sections may be represented. We choose our Members of Congress from districts within the States, that the different views of our people may be represented in the national legislature. Every section of the State is heard in the selection of United States Senators. Only in the choice of Presidential electors is this local representation denied.

The legislature of Michigan, in the exercise of its constitutional power, and in the hope that all the States will join her in returning to the methods of the Constitution, has given the voters of every section of the State an opportunity to express their choice for the Presidency.

EDWIN B. WINANS.